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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,793	06/19/2001	Joel Zdepski	5266-03400	6907

44015 7590 06/15/2006

OPTV/MEYERTONS
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AUSTIN, TX 78701

EXAMINER

SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/885,793	Applicant(s) ZDEPSKI, JOEL	
	Examiner Annan Q. Shang	Art Unit 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

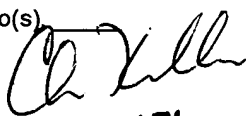
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) _____
 13. ☐ Other: _____


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SUPERVISORY PATENT EXAMINER
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Continuation of 11. does NOT place the application in condition for allowance because: With respect to claims 1-68 rejected under 102(e) as being anticipated by Shoff et al. (6,240,555), applicant states that, "it appears particular claims have been overlooked and not examined. For example, claims 3 and 36 recite features which are not addressed in the present office action..."

In responses, Examiner disagrees. Claims 3 and 36 were incorporated in claims 1 and 34. In claim 1, line 7+, recites these statement, "...and col.8, lines 4-34), note that VCU/STB 24/26 receives the TV program, the supplemental interactive content, an interactive icon 'script' and the interactive application, via Head end 22, a television broadcaster and web content provider (col.4, lines 14-21 and line 43-col.5, line 1+), stores in memory (94/96, coupled to Tuner 98/100, fig.5, col.8, lines 4-38) and processor 92 'a network communications operator,' retrieves these contents and execute IAP to provide TV program, the icon and supplemental content accordingly on display 200 (figs.8a-8c..." which meets the claimed limitations of claims 3 and 36.

Applicant further argues that, "In the Office Action, the 'icon' of Shoff is equated with the script which is recited in the claims, However, the icon and script are not equivalent...Shoff does not disclose the icon provides automated input corresponding to the opportunity, in lieu of user input. Rather, the icon merely indicates a program is interactive compatible and responsive to user input supplemental content may be provided via an Internet browser..." and further cites columns in Shoff to support this teaching.

In response, Examiner disagrees. Examiner, notes applicant's argues, however, applicant cited col.9, lines 30-58 and overlooked col.9, lines 59-col.10, line 6 and lines 34-67, which were also cited in the Office action (see page 3, lines 4-12), where shoff discloses that, "...An icon 204 is displayed at the lower right corner of the screen...The icon 204 can be displayed throughout the program, or faded out after a set time period..." (Col.9, lines 41-59), lines 60-col.10, line 1+ recites, "This leads to another approach to invoking the supplemental content. Rather than displaying an icon and waiting for input from the viewer, the viewer computing unit can automatically activate the target resource as soon as the browser is loaded on the processor (step 170 from the 'automatic' branch from step 160). The target resource contains digital data which supports interactive functionality in conjunction with the associated video content program. The digital data defines the supplemental content to enable viewer interactivity with the video content..." col.10, lines 34-67 also recites, "At the viewer computing unit, the digital data is deconstructed to extract the timing information and the display layout from the supplemental content..." These cited columns also illustrates, "...storing the input in a message queue..." Hence besides displaying an icon, Shoff further displays a digital data 'script' in place of the icon. Applicant's arguments are not persuasive, the 102(e) rejections of claims 1-68 using Shoff is proper, the finality of the last office action is proper and maintained.